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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 ROY RUFFINO,

9 Plaintiff,

10 v.

11 CITY OF PUYALLUP,

12 Defendant.

CASE NO. C18-5381 BHS

ORDER DENYING
DEFENDANT'S MOTION FOR
RECONSIDERATION

13 This matter comes before the Court on Defendant City of Puyallup's ("City")
14 motion for reconsideration. Dkt. 108. The Court has considered the pleadings filed in
15 support of the motion and the remainder of the file and hereby denies the motion for the
16 reasons stated herein.

17 **I. BACKGROUND**

18 On January 10, 2019, Plaintiff Roy Ruffino ("Ruffino") moved for partial
19 summary judgment on his First Amendment claims challenging the City's pedestrian
20 safety zones enforced during the Spring and Fall fairs. Dkt. 56. Also on January 10, 2019,
21 the City renewed its previously-filed motion for partial summary judgment. Dkt. 59. On
22 March 29, 2019, the Court granted summary judgment for the City as to content

1 neutrality, the City’s substantial interest, the narrow tailoring of the temporal
2 enforcement and the Blue gate’s pedestrian safety zones, and the availability of ample
3 alternatives. Dkt. 106 at 27. The Court found that “the pedestrian safety zone at the Gold
4 gate is content neutral and in response to a substantial government interest but is not
5 narrowly tailored” and granted Ruffino’s motion for partial summary judgment “as to the
6 pedestrian safety zone at the Gold gate.” *Id.* On April 2, 2019, the City filed the instant
7 motion for reconsideration or clarification as to the Gold gate. Dkt. 108.

8 **II. DISCUSSION**

9 Motions for reconsideration are governed by Local Rules W.D. Wash. LCR 7(h),
10 which provides:

11 Motions for reconsideration are disfavored. The court will ordinarily deny
12 such motions in the absence of a showing of manifest error in the prior
13 ruling or a showing of new facts or legal authority which could not have
14 been brought to its attention earlier with reasonable diligence.

15 Local Rules W.D. Wash. LCR 7(h). The Ninth Circuit has described reconsideration as
16 an “extraordinary remedy, to be used sparingly in the interests of finality and
17 conservation of judicial resources.” *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877,
18 890 (9th Cir.2000) (quoting 12 James Wm. Moore et al., *Moore’s Federal Practice* §
19 59.30[4] (3d ed.2000)). “[A] motion for reconsideration should not be granted, absent
20 highly unusual circumstances, unless the district court is presented with newly discovered
21 evidence, committed clear error, or if there is an intervening change in the controlling
22 law.” *Id.* (quoting *389 Orange Street Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir.
1999)).

1 Here, the City has not presented any significant new fact or legal authority that
2 was unavailable at the time of the summary judgment briefing.¹ The City requests that
3 either the Court reconsider its decision that the pedestrian safety zone at the Gold gate is
4 not narrowly tailored or clarify the parameters of its ruling on the invalidity of the zone.
5 Dkt. 108 at 3. The Court’s ruling resolved the issue of liability on the existing design of
6 the Gold gate zone in the context of the City’s failure to contest Ruffino’s claim that “the
7 entire street along 9th, west of Meridian” at the Gold gate intersection is consistently
8 closed to vehicle traffic. Dkt. 106 at 24 (citing Dkt. 56 at 2). The Court found that
9 “[m]odifying the zone at the Gold gate to account for the street closure is an obvious, less
10 restrictive alternative that would allow substantially more access for speech.” *Id.* at 25.

11 While the Court agrees with the City that aspects of the safety zone at the Gold
12 gate appear responsive to pedestrian safety concerns, the City did not establish that its
13 design accounted for the street closure. The Court concluded that on the available
14 evidence, the zone was not narrowly tailored. *Id.* at 25. The City’s motion for
15 reconsideration highlights evidence, submitted in support of its motion for summary
16 judgment but not discussed in its brief, supporting the need for pedestrian safety zones to
17 extend west along 9th at the Gold gate. Dkt. 108 at 3–6. This evidence does not
18 contradict the Court’s finding that pedestrian safety zones west of the west crosswalk are
19 not narrowly tailored in the context of the street closure, nor does the City explain how
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21 ¹ The City includes newly submitted evidence about a Starbucks coffee shop located at
22 the intersection, Dkt. 109, but does not establish whether the City discovered the coffee shop
before or after the briefing on summary judgment.

1 the zones function in the context of the street closure. Therefore, the Court declines to
2 reconsider its holding on liability.

3 The Court understands the City's need for clarity to incorporate the Court's intent
4 into its traffic safety plan. Dkt. 108 at 3. However, the Court's view is that the contours
5 of narrowly tailored safety regulation at the Gold gate should be established through
6 further briefing on a permanent injunction, which the Court expects will be filed in due
7 course.

8 **III. ORDER**

9 Therefore, it is hereby **ORDERED** that the City's motion for reconsideration, Dkt.
10 108, is **DENIED**.

11 Dated this 4th day of April, 2019.

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14 BENJAMIN H. SETTLE
United States District Judge